UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.519
17 May 2002

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 519th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 10 May 2002, at 3 p.m.

Chairman: Mr. BURN3

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Conclusions and recommendations concerning the fourth periodic report of Denmark

Initial report of Saudi Arabia (continued)

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.519/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.02-41820 (E) 140502 170502

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Conclusions and recommendations concerning the fourth periodic report of Denmark (CAT/C/55/Add.2; CAT/C/XXVIII/Concl.3)

1. At the invitation of the Chairman, Ms. Jepsen (Denmark) took a place at the Committee table.

2. Mr. EL MASRY, Country Rapporteur, read out the Committee's conclusions and recommendations concerning the fourth periodic report of Denmark (CAT/C/55/Add.2), which were contained in document CAT/C/XXVIII/Concl.3.

3. Ms. JEPSEN (Denmark) thanked the Committee for its conclusions and recommendations, which would be transmitted to her country's authorities.

4. Ms. Jepsen (Denmark) withdrew.

The meeting was suspended at 3.15 p.m. and resumed at 3.30 p.m.

Initial report of Saudi Arabia (continued) (CAT/C/42/Add.2)

5. At the invitation of the Chairman, the members of the delegation of Saudi Arabia took places at the Committee table.

6. Mr. AL-SHAMKH (Saudi Arabia) said that, while his delegation appreciated the Committee members' openness, it felt that the oral questions they had put did not reflect much depth of knowledge of Saudi Arabia. They had ignored the fact that, in Islamic countries such as Saudi Arabia, the Koran and the Sunna were the Constitution; to attempt to amend such a Constitution was to violate divine law and anyone calling for such amendments was not a good Muslim.

7. His delegation would attempt to answer the Committee's questions in good faith, without politicizing issues, and try to agree on common human rights standards without preferring one civilization over another, despite the fact that the Convention had been drafted by Westerners who were unfamiliar with Islamic law.

8. Saudi Arabia's ratification of the Convention meant that it had been incorporated into domestic law and could be invoked in the courts.

9. The law governing powers of arrest and detention had recently been amended: a person could be arrested only if caught in flagrante delicto; accused of a serious crime such as murder, robbery or rape; or if such arrest was required by the investigation to prevent the suspect absconding. Any period of pre-trial detention was deducted from a subsequent prison sentence.

10. The purpose of the Committee for the Propagation of Virtue and Prevention of Vice was the prevention of crime and the preservation of morality. Its members had powers of arrest in flagrante delicto provided that the gravity of an offence warranted detention for the preservation of law and order. Such detainees must be handed over to the authorities to determine whether there was enough evidence for further detention, and could be released pending investigation. The Committee's role ended with the transfer of a detainee.

11. With regard to the high costs of representation by legal counsel, he said that everyone had the right to be represented by a lawyer and could apply to the court for legal aid.

12. The initial period of pre-trial detention could not exceed 24 hours, after which the accused must be released or handed over to the Public Investigation and Prosecution Department, which then had 24 hours to decide whether to release him or detain him for a maximum of a further five days. The accused could then be detained for a further maximum of 48 days by order of the Director of the Public Investigation and Prosecution Department; depending on the gravity of the offence, detention could subsequently be extended for a further maximum period of six months by the Director of the Public Investigation and Prosecution Department.

13. Confessions made under duress - whether mental or physical - were not acceptable under Shariah law. Confessions were subject to full judicial supervision and must be endorsed by a judge. A confession could be revoked at any time.

14. Refoulement and deportation were governed by the residence regulations; the extradition of common criminals was covered by article 42 of the Basic Law of Government. The Egyptians and other Arabs referred to by Committee members had been deported in accordance with the law and his Government had no information that they had been subjected to torture.

15. Prisons in Saudi Arabia were inspected regularly. Conditions were considered good and met international standards, though it must be acknowledged that seasonal crime during the summer and the period of the Hajj led to temporary overcrowding.

16. The Commission responsible for investigating allegations of torture in accordance with the Convention had considered 24 cases in the past year. A number of individuals had been charged with torture and the Board of Grievances had taken decisions in those cases.

17. Periods of detention exceeding five days occurred in particularly serious cases, or after completion of an investigation in accordance with article 114 of the Code of Criminal Procedure. The cases referred to might also have been governed by the old provisions of the Code of Criminal Procedure, which had allowed for longer periods of detention.

18. Under the Code of Criminal Procedure, no authority in Saudi Arabia could detain a person without judicial supervision. Further executive regulations governing the practice of detention would be issued shortly.

19. Solitary confinement was permitted only if an investigation so required, and then for a maximum of 60 days, or if a prisoner was proved in court to have committed an offence while in a prison or detention centre. In both cases, visits by family members and legal counsel were allowed.

20. All articles of the Convention applied to all offences and Saudi Arabia had absolute jurisdiction over all offences of torture committed in its territory.

21. Families were permitted to visit detainees regularly, and any delay in permitting visits or any denial of visiting rights was investigated. Family areas - and private rooms for married couples - isolated from the main body of the prison, were available for visits.

22. The Public Investigation and Prosecution Department had made 17,000 prison visits during the past year. With regard to prison inspections by non-governmental observers, Saudi Arabia did not prohibit coordination with United Nations human rights observers, and the representatives of accredited embassies were permitted to visit their nationals in prison. The Government would shortly be authorizing the establishment of a non-governmental organization (NGO) to help in the defence of human rights.

23. All offences covered by article 16 of the Convention were liable to legal proceedings and sanctions.

24. Corporal punishment was administered under full medical, judicial and administrative supervision, full account being taken of the health status of the person concerned. No deaths had ever been recorded in connection with corporal punishment. Corporal punishment was intended as a deterrent: under Shariah law, it should not be administered if there was any doubt about the guilt of the individual or the evidence in the case. The aim was not to punish but to rehabilitate and to protect society.

25. Legal proceedings regarding allegations of torture were initiated by a complaint filed by the victim or his representative. No criminal proceedings could be brought if the matter involved a private right, although the authorities could take action if they considered it to be in the public interest. If the victim was a prisoner, the Public Investigation and Prosecution Department would look into the matter and the prison authorities were obliged to record the complaint in a special register.

26. The media in Saudi Arabia were required to use decorous language, abide by the law, refrain from fomenting discord or strife, and avoid undermining State security. The media frequently commented on new laws and other legal instruments. International treaties, including the Convention, were promulgated by a Royal Decree ordering their implementation by the appropriate authorities. Sexual violence in prisons was treated no differently from other crimes, and prison officers who committed such an offence could be dismissed or have their end of service indemnity cancelled. "Immediate interrogation" of arrested persons meant prompt interrogation, and at any event within 48 hours.

27. The following safeguards were in place in Saudi Arabia to protect children against torture: the teachings of the Shariah; the implementation of the Convention on the Rights of the Child, education campaigns in schools and the media; the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the existence of a telephone hotline enabling children to report cases of abuse and ill-treatment.

28. The specific allegations made by Mr. Ali Al-Mulablab had been dealt with under the confidential 1503 procedure of the Commission on Human Rights, which had found his case to be unfounded. The case of the Ethiopians, also referred to by the Committee, had been examined by a Special Rapporteur of the Commission on Human Rights. His Government had already provided answers to the questions raised and considered the case to be closed.

29. Mr. AL-HOGAIL (Saudi Arabia) said that Saudi Arabia was an Islamic State that applied the dictates of the Holy Koran. The Koran set out specific sanctions such as amputation, flogging (whipping) and stoning for certain crimes. Those sanctions could neither be abrogated nor amended since they emanated from God. The strict application of the Koran was a sign of governmental authority in an Islamic State, and the State was bound to refrain from taking any decision that ran counter to the Shariah. On acceding to the Convention, as in the case of all other international treaties, the Government of Saudi Arabia had stated that it saw no conflict between the Convention and the Shariah. The Shariah defined torture as the infliction of bodily or mental harm or cruelty to animals, and prescribed appropriate punishment for such crimes.

30. The sanctions referred to in the Koran were not forms of torture within the meaning of article 1 of the Convention - which excluded pain or suffering arising from, inherent in or incidental to lawful sanctions - precisely because they were the law of the land. The Saudi Arabian Code of Criminal Procedure prohibited the infliction of any punishment other than that prescribed by the Shariah or the law.

31. Members of the "religious police" (to use the Committee's designation) attended human rights seminars on a variety of topics at the Police Academy, and there were also special courses and seminars for military and security officers. Incidentally, there had never been, nor could there be, any differences of opinion among Islamic scholars regarding the use of corporal punishment as specified in the Koran. Since those sanctions were divinely ordained, it would be impossible to interpret them in such a way as to avoid their application. The so-called "religious police" operated under a code of regulations. They were civilian government officials selected on the basis of scholarly qualifications and good reputation. They were trained in special institutes.

32. Mr. AL-SAAWI said that the Saudi Arabian judiciary was completely independent, as commanded by the Islamic Shariah. Equal justice for all was impossible unless the judiciary was independent of the other organs of the State and subordinate to the law alone. Moreover, the Shariah prohibited anyone from sitting in judgement if he was in an abnormal psychological state. No one was permitted to interfere in the work of the judiciary. To preserve the independence of the judiciary, the selection and supervision of judges had been left to the Supreme Council of the Judiciary. Judges could not be dismissed, transferred or reprimanded other than as specified by law.

33. The Deputy Minister of Justice, who sat on the Supreme Council of the Judiciary, was a former senior judge who acted as an undersecretary to the Minister of Justice. The fact that he was a former judge in fact facilitated the delivery of administrative services to the courts. When sitting on the Supreme Council of the Judiciary, the Deputy Minister of Justice served in his capacity as a judge among other judges. In the view of the Saudi Arabian Government, such an arrangement did not violate the principle of judicial independence.

34. All Saudi Arabian judges were required to hold a bachelor's degree in law and to have graduated from a Shariah faculty of law. Newly qualified judges were also required to work in an associate capacity for three years. Wahhabi schools did not exist in Saudi Arabia. Persons belonging to the Shi'ah minority received the same treatment as other citizens since, in the Holy Koran, God commanded fairness and justice for all.

35. Many police officers had been tried for abusing their authority and appropriate remedial action had been taken. The maximum penalty for such an offence was 10 years' imprisonment or a fine of 20,000 riyals and, in addition, the victim was entitled to seek damages. As for the machinery for receiving compensation, any injured party had the right to bring an action for damages, and the Board of Grievances was empowered to award compensation for torture when the perpetrator was a public official.

36. Social care and rehabilitation programmes were available to torture victims who, by availing themselves of such programmes, did not waive their right to seek damages in the courts. The General Courts and the Board of Grievances had jurisdiction over such cases throughout the territory of Saudi Arabia.

37. Foreigners had exactly the same right of access to the courts as Saudi Arabian citizens.

38. Mr. MADANI (Saudi Arabia) said that detainees and prisoners were looked after and supervised by qualified medical personnel. If a doctor suspected torture, or if a prisoner complained of being tortured, the Public Investigation and Prosecution Department was notified immediately and the case was referred to the Department of Forensic Medicine, which had 18 well-equipped centres throughout the country. The complainant would then undergo a thorough internal and external medical examination; before certain procedures could be carried out, however, his permission had to be obtained.

39. Significant improvements were currently being promoted in the country's health-care system, including by upgrading the qualifications of Saudi Arabian experts, both at national universities and abroad, especially in medically advanced countries. Special attention was given to forensic medicine and there were already a satisfactory number of experts in that field, working side by side with technical experts and making a significant contribution to the solution of numerous cases.

40. While a confession was the best evidence, it was not the only evidence and it was vital to ensure that the relevant laws and regulations were respected. Forensic medicine supported other types of evidence used in the courts and there had been cases where forensic examination had shown that confessions were not valid, having been obtained by torture. Efforts were continuing to ensure further progress in that area.

41. Mr. AL-MADI said, with regard to the question of "legal sanctions", that the issue had merely reflected the view of the Special Rapporteur: neither the Human Rights Committee nor any other Committee had requested an opinion on the matter. While the Special Rapporteur's interpretation might have been welcomed by NGOs, he questioned whether it was appropriate to interpret the Convention in accordance with the opinion of a single individual.

42. Conceding that the country's report was not above criticism, he stressed that it was an initial report and said that the Committee's views would be taken into consideration in the preparation of future reports. In that context, he noted that the courses organized under the auspices of the Office of the High Commissioner for Human Rights (OHCHR) on the preparation of reports had fallen short of expectations, since no expert from the Committee against Torture had been present at the course on human rights reporting held in Turin in 1999 and attended by representatives of Saudi Arabia.

43. Other States had not kept strictly to the guidelines in the preparation of their reports and he wondered whether they would receive comparable comments from the Committee. In particular, he wondered why the abstention of other States from the United Nations Declaration of Human Rights was never mentioned. Saudi Arabia had posted a reservation to the Universal Declaration with regard to two paragraphs which conflicted with the concept of Shariah; no mention was ever made, however, of the State which had forced a vote on the Universal Declaration and prevented it from being adopted by consensus.

44. With regard to the allegations that homosexuals had been put to death in Saudi Arabia, he said that the persons in question had been found guilty of the sexual exploitation of children and their sentence had nothing to do with their sexual orientation. As for the assertions that a large number of foreign workers had been imprisoned or executed in Saudi Arabia, he pointed out that there were very considerable numbers of foreigners living in the country all of whom enjoyed full rights, including the right to a fair trial. Noting that all those allegations originated from the report of a single NGO, he pointed out that the Working Group on Communications had deemed the allegations by that NGO to be inadmissible. Saudi Arabia had cooperated fully with the Working Group, whose impartiality and neutrality could not be called into question, as it had with all the special procedures, including the Special Rapporteur on the question of torture. He wondered, therefore, why such allegations were being recycled by the Committee.

45. With regard to the status of refugees, he recalled that Saudi Arabia had announced its intention to accede to the 1951 Convention relating to the Status of Refugees and its Protocol of 1967.

46. Finally, with regard to the Manual on Human Rights Reporting, he pointed out that the Committee against Torture was not a judicial tribunal; its function was to start a dialogue with the States parties. He regretted that that admirable purpose had been somewhat contradicted by the Committee's response to his country's initial report. Over the previous six years, Saudi Arabia had acceded to a number of major human rights instruments and had adopted important statutes in that area.

47. Dialogue was of great importance, but he wondered what positive results could flow from the criticisms and accusations levelled against Saudi Arabia by the Committee. He hoped that its report could be given at least the same consideration as the reports of NGOs and stressed that positive dialogue required mutual understanding.

48. The CHAIRMAN said that no accusations had been made against Saudi Arabia. The standard procedure followed by the members of the Committee was to ask any questions they deemed appropriate and then to listen very carefully, with the utmost respect, to a delegation's answers, for it was those answers which were largely responsible for determining the Committee's views. The methods used by such treaty bodies within the United Nations might be unfamiliar to some parties but he stressed that the Committee was not unsympathetic to the situation of Saudi Arabia and assured its delegation that precisely the same approach was adopted in respect of all the States reporting to the Committee. It was a cause for serious concern, in that connection, that no member of the Committee had attended the course in Turin.

49. He assured the delegation of Saudi Arabia that the purpose of the exercise was, indeed, to achieve a dialogue but it might be some time before that goal was reached. While there were some issues which the State party might consider inconsistent with its interpretation of its obligations under the Convention and to which it would not therefore respond, he hoped that it would be possible to find some means of resolving those issues in their pursuit of dialogue.

50. Mr. YAKOVLEV said that the submission of Saudi Arabia's initial report was a particularly significant event, given the influence exercised by that county, which was connected to the international community by a number of conventions. The Committee fully understood the difficulties faced by a country submitting its initial report and stressed that the members' questions, though they might seem harsh, were designed to reach a better understanding of those difficulties. In particular, he was sympathetic to the special situation of a State party like Saudi Arabia, which was founded on strictly religious principles. Reiterating that universal adherence to and observance of the Convention were in the best interests of humankind, he expressed his hope that the Committee would attain the goal of dialogue with Saudi Arabia in the near future.

51. Mr. MAVROMMATIS said that he had been surprised to hear assertions that the Committee had levelled accusations against Saudi Arabia and stressed how much its members valued Saudi Arabia's accession to the Convention. His own questions regarding the independence of the judiciary had been not an accusation but an endeavour to ascertain the situation, which had since been clarified and was indeed satisfactory. He assured the delegation that its cooperation was greatly appreciated and would contribute to a dialogue with the Committee.

52. The CHAIRMAN said that, like Mr. Mavrommatis, he, too, had understood from the report that there was a serving judge who was also a member of the executive. There was a major difference between a situation where a serving judge was a member of the executive and the commendable situation where the executive included a former judge, and he was pleased that the issue had been cleared up during the hearing of the country's initial report.

53. Mr. EL MASRY said he believed that the consideration of the country's initial report had been a very successful exercise, as exemplified by the clarification regarding the independence of the judiciary. He also assured the delegation that the Committee's purpose was to reach dialogue through a process of questions and answers, which might appear accusatory, but the objective of which was to ensure that States achieved the noble aims of the Convention. He pointed out, moreover, that the pursuit of dialogue was consistent with the principles of Islam.

54. Noting that it had taken Europe 2,000 years to prohibit torture, he commended Saudi Arabia on the positive steps it had taken in a very short period. Whereas, in Western judicial systems, torture had been considered until the eighteenth century an acceptable means of obtaining the truth. Islam had, in the seventeenth century, proclaimed the equality of all human beings and prohibited the torture of both human beings and animals. Saudi Arabia was working on the basis of a very strict application of Islamic principles and, in view of that country's special place in the Islamic world, it was vital that it should remain within the Convention and work with the Committee to reach a common understanding. Noting both the size and the impressive quality of its delegation, he thanked Saudi Arabia for its replies and looked forward to the future dialogue between the State party and the Committee.

55. Ms. GAER said that, in its quest for the truth, the Committee sometimes sought more information than Governments were willing to provide, in terms not only of compliance with the Convention but also, of course, of non-compliance.

56. She had heard two different explanations of the principles of the Shariah: the first was that justice and equality were enshrined for all; and the second that there should be equal justice for all. She would like further clarification on that issue. The principles of equality and justice were at the heart of all religious beliefs and she sought to know who exactly was covered by the word "all" and, in particular. whether it applied to religious minorities and to all persons, regardless of sex, nationality or sexual orientation.

57. She thought it would be useful if the Committee could have a copy of the new law on the legal profession and wished to know, in particular, whether women could serve as lawyers and judges and be members of the so-called mutawwi in, or religious police. In addition, she would like statistics of the numbers of people in detention and the sentences handed down, as well as on the circumstances under which pardons were granted.

58. Since apparently the three persons executed in January had been put to death not because they were homosexuals but because of other acts, she wondered if she was correct in assuming that the Government had not criminalized sexual acts of persons of different sexual orientation. Also, it was not clear if there had been a public inquiry into what had actually transpired during the fire at the girls' school and if there had been any criticism by the Government of any actions by the religious police. She appreciated the delegation's clarification that no volunteers ever served in the mutawwi in.

59. She noted that the Committee regularly received information from many sources, such as NGOs or the United States Department of State, and she believed it was not inappropriate for members to refer to it. The spirit in which one engaged in the reviews of reports was the important thing. She herself had been very moved by the last words in the report of

Saudi Arabia, that God was the arbiter of their success. The Committee certainly respected equality and, in the name of tolerance and mutual respect, she looked forward to receiving the further clarifications she was requesting.

60. Mr. RASMUSSEN, having expressed satisfaction with the dialogue and with the delegation's replies, especially those of the last speaker, said that he was impressed by the delegation's size and quality. It was very exceptional for him to receive replies to his own medical questions from a medical colleague; and for a State to have, as a service to prisoners, established forensic centres that could intervene in response to their complaints or even on suspicion of ill-treatment.

61. Mr. MARIÑO MENENDEZ said that he had gained a better picture of the independent human rights organizations in Saudi Arabia. In connection with refoulement, he asked whether asylum-seekers were given any special status as such, regardless of whether they were residents. He admired the fact that a vote had been taken in the country on the Government's adoption of the Universal Declaration of Human Rights; he knew of no other such opportunity given to a people to express that wish. He expressed a genuine desire for continuation of the dialogue with the Government of the State party.

62. Mr. AL-SHAMKH (Saudi Arabia), responding to the questions just raised, said that prohibited acts should be taken to mean acts that were not condoned by the law. Any cruel or inhuman treatment was punishable by law after due judicial proceedings under the Shariah, which called for arguments by both prosecution and defence. Islamic law also prohibited any discrimination whatsoever and made no distinctions on the grounds of sex, colour, language or other distinctive features. Nationals and foreigners therefore received exactly the same treatment.

63. There was nothing to stop a woman from becoming a lawyer, judge, police officer or member of the mutawwi'in. The role of the religious police being to ensure morality and public safety, the fact that there actually were some women members was particularly useful when the offender was a woman.

64. His delegation would need to obtain the necessary statistics before replying to the questions regarding arrest and detention, and pardons. The three homosexuals sentenced to death had been executed because they had committed a serious crime, which, he believed, had been murder.

65. The media reports about the girls' school fire had been incorrect. The Minister of the Interior had confirmed that the security forces present at the time had not prevented rescuers from doing their duty, but rather that there had been a panic leading to the tragedy. There had, indeed, been an inquiry, subsequently made public: it had concluded that the fire had been caused by a girl smoking.

66. The right of asylum was governed by the relevant international laws and Saudi Arabia applied them. Refoulement was governed by residence regulations, and a person could be expelled only after an official order had been issued.

The public part of the meeting rose at 5.30 p.m.